



STATE OF LOUISIANA
DEPARTMENT OF STATE CIVIL SERVICE
LOUISIANA BOARD OF ETHICS

P.O. BOX 4368
BATON ROUGE, LA 70821
(225) 219-5600
FAX: (225) 381-7271
1-800-842-6630
www.ethics.la.gov

Thursday, July 22, 2021

Amy Henke, Psy.D.
Louisiana State Board of Examiners
of Psychologists
4334 S. Sherwood Forest Boulevard
Suite #C-150
Baton Rouge, Louisiana 70816

**Re: Louisiana Board of Ethics
Docket No. 2021-411**

Dear Dr. Henke:

The Louisiana Board of Ethics ("Board"), at its August 6, 2021 meeting, considered your request for an advisory opinion as to whether the Louisiana Code of Governmental Ethics ("Code") would prohibit the continued service (on a volunteer basis) of members of the Louisiana State Board of Examiners of Psychologists ("Board") after their terms expire.

FACTS PROVIDED

You are the Chairperson of the Board. The Board's enabling statutes, found at La. R.S. 37:2351, *et seq.*, wherein the Board's creation was viewed as "necessary in order to safeguard life, health, property, and the public welfare of this state, and in order to protect the people of this state against unauthorized, unqualified, and improper application of psychology." La. R.S. 37:2351. The Board consists of six (6) members to be comprised of five (5) psychologists and one (1) consumer. La. R.S. 37:2353(A)(1). The governor shall appoint members to serve five (5) year terms. La. R.S. 37:2353(A)(2). Board members serve without compensation but receive seventy-five dollars (\$75) per diem allowance plus the mileage rate provided state employees to cover expenses incurred while engaged in the discharge of their duties.

You have asked the following questions:

1. Can a former Board member donate his/her services to the board by volunteering for a Board committee or workgroup within a period of two (2) years following the termination of his/her public service?
2. Can a former Board member receive travel expenses and other reimbursements within a period of two (2) years following the termination of his/her public service?

3. Can a former Board member receive a per diem under existing statutory authority, state travel guidelines or policy in the same manner as current Board members within a period of two years following the termination of his/ her public service?

LAW

La. R.S. 42:1102(3) defines “agency head” to mean the chief executive or administrative officer of an agency or any member of a board or commission who exercises supervision over the agency.

La. R.S. 42:1121(A)(1) provides that no former agency head or elected official shall, for a period of two years following the termination of his public service as the head of such agency or as an elected public official serving in such agency, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction, involving that former agency or render any service on a contractual basis to or for such agency.

La. R.S. 42:1121(A)(2) provides that no former member of a board or commission shall, for a period of two years following the termination of his public service on such board or commission, contract with, be employed in any capacity by, or be appointed to any position by that board or commission.

La. R.S. 42:1123(1) provides an exception for participation in the affairs of charitable, religious, nonprofit education, public service, or civic organizations when no compensation is received.

La. R.S. 42:1123(30) provides that a public servant, a legal entity in which he has a controlling interest or a member of his immediate family may donate services, movable property, or funds to his agency. Nothing herein shall be construed to allow a public servant to make an appointment of a person which is otherwise prohibited by this Chapter.

CONCLUSION

The Board concluded, and instructed me to inform you, that based on the facts presented, the Code dictates the following answers to your questions:

1. Can a former Board member donate his/her services to the board by volunteering for a Board committee or workgroup within a period of two (2) years following the termination of his/her public service?

Yes. La. R.S. 42:1121(A) prohibits a former Board member from: 1) assisting another person for compensation in a transaction or in an appearance in connection with a transaction involving his former agency; 2) rendering any service on a contractual basis to or for his former agency; 3) contracting with his former agency; 4) being employed in any capacity by his former agency; and, 5) being appointed to any position by his former agency. A former Board member who donates/volunteers his services

would not be in violation of La. R.S. 42:1121(A) because the former Board member will not be: 1) assisting another person for compensation in a transaction or in an appearance in connection with a transaction involving the Board; 2) rendering any service on a contractual basis to or for the Board; 3) contracting with the Board; 4) being employed in any capacity by the Board; and, 5) being appointed to any position by the Board. Additionally, La. R.S. 42:1123(1) allows former Board members to participate in Board affairs if the former Board member does not receive compensation. La. R.S. 42:1123(30) allows former Board members to donate their services.

2. Can a former Board member receive travel expenses and other reimbursements within a period of two (2) years following the termination of his/her public service?

Yes. See the response to Question No. 1. The Code allows former Board members to be reimbursed for any travel and other expenses incurred while volunteering their services to the Board.

3. Can a former Board member receive travel expenses and other reimbursements within a period of two (2) years following the termination of his/her public service?

Yes. See the response to Question No. 2.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Louisiana Code of Governmental Ethics. The Board issues no opinion as to past conduct or as to laws other than the Louisiana Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Act, and the conflict of interest provisions contained in the Louisiana Gaming Control Law. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,
LOUISIANA BOARD OF ETHICS

LaToya D. Jordan
For the Board